

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:10CV74-1-MU

TIDO MAURICE THOMPSON,)
)
 Petitioner,)
)
 v.)
)
 UNITED STATES OF AMERICA,)
)
 Respondent.)
 _____)

ORDER

THIS MATTER comes before the Court upon the Respondent's Motion to Dismiss, or in the alternative, Motion for Summary Judgment (Doc. No. 7), filed April 22, 2010.

On April 22, 2010, this Court sent the Petitioner an Order in compliance with Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975). In this Order, the Court notified the Petitioner that the Respondent had filed a dispositive motion and that if the Petitioner failed to respond to this motion within thirty days, the Court might grant the Motion for Summary Judgment. On April 27, 2010, Petitioner requested an extension of time to respond to the dispositive motion which this Court granted. Petitioner's response was due June 2, 2010. Petitioner's deadline for filing a response has expired and Petitioner has failed to respond to the Respondent's Motion.

The Court has carefully reviewed the well-reasoned and unopposed Motion to Dismiss, or in the alternative, Motion for Summary Judgment filed by Respondent and finds that Respondent is entitled to a dismissal. More specifically, this Court finds that Petitioner's Motion to Vacate is untimely. In addition, the Court finds that Petitioner's claim is meritless.

THEREFORE, IT IS HEREBY ORDERED that:

1. Respondent's Motion to Dismiss, or in the alternative, Motion for Summary Judgment (Doc. No. 7) is **GRANTED**;

2. Petitioner's Motion to Vacate is **DENIED and DISMISSED**; and

3. It is further ordered that pursuant to Rule 11(a) of the Rules Governing Section 2254 and Section 2255 Cases, this Court declines to issue a certificate of appealability as Petitioner has not made a substantial showing of a denial of a constitutional right. 28 U.S.C. § 2253(c)(2); Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003) (in order to satisfy § 2253(c), a petitioner must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong)(citing Slack v. McDaniel, 529 U.S. 473, 484 (2000)).

Signed: June 9, 2010



Graham C. Mullen
United States District Judge

